

United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

2015 MAR 12 P 3:20  
FILED  
RICHARD H. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

v.

LUKE BRUGNARA,

CR. 14-0306 WTA

DEFENDANT(S).

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**INDICTMENT**

Title 18 U.S.C. § 1341 - Mail Fraud;

Title 18 U.S.C. § 1343 - Wire Fraud;

Title 18 U.S.C. § 1623 - False Declaration Before Court;

Title 18 U.S.C. § 751(a) - Escape;

Title 18 U.S.C. § 401(3) - Contempt of Court;

Title 18 U.S.C. § 982(a)(1)(c) and Title 28; U.S.C. § 2461(c) Forfeiture Allegation

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A true bill.

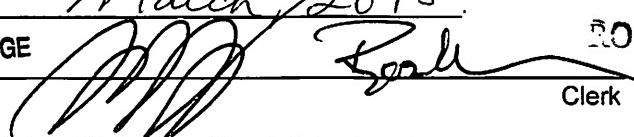
  
Foreman

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Filed in open court this 12<sup>th</sup> day of

March, 2015

MARIA-ELENA JAMES  
UNITED STATES MAGISTRATE JUDGE

 ROSE MAHER

Clerk

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NO PROCESS

Bail, \$ \_\_\_\_\_

## DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY:  INFORMATION  INDICTMENTMatter Sealed:  Juvenile  Other than Juvenile

Pre-Indictment Plea  Superseding  Defendant Added  
 Indictment  Charges/Counts Added  
 Information

Name of District Court, and/or Judge/Magistrate Location (City)

UNITED STATES DISTRICT COURT Northern California (SF)  
DISTRICT OF Divisional OfficeName and Office of Person Melinda Haag  
Furnishing Information on  U.S. Atty  Other U.S. Agency  
THIS FORM Phone No.Name of Asst.  
U.S. Attorney Robin Harris/Benjamin Kingsley  
(if assigned)

## PROCEEDING

Name of Complainant Agency, or Person (&amp; Title, if any)

Federal Bureau of Investigation

 person is awaiting trial in another Federal or State Court  
(give name of court) this person/proceeding transferred from another district  
per (circle one) FRCrP 20, 21 or 40. Show District this is a reprocsecution of charges  
previously dismissed which were  
dismissed on motion of: U.S. Atty  Defense this prosecution relates to a  
pending case involving this same  
defendant. (Notice of Related  
Case must still be filed with the  
Clerk.) prior proceedings or appearance(s)  
before U.S. Magistrate Judge  
regarding this defendant were  
recorded underSHOW  
DOCKET NO.  
CR 14-0306 WHAMAG. JUDGE  
CASE NO.  
3 14 70731 JSC

Place of offense San Francisco County

CASE NO.

USA vs. CR14-0306 WHA

Defendant: Luke D. Brugnara

Address:

 Interpreter Required Dialect:Birth Date 10/18/1963  Male  Alien  
 Female (if applicable)

Social Security Number

## DEFENDANT

Issue:  Warrant  Summons

Location Status:

Arrest Date 5/28/2014 or Date Transferred to Federal Custody

- Currently in Federal Custody  
 Currently in State Custody  Writ Required  
 Currently on bond  
 Fugitive

Defense Counsel (if any): Jeffrey Bornstein

- FPD  CJA  RET'D  
 Appointed on Target Letter

 This report amends AO 257 previously submitted

## OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts 6

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Count(s)
	SEE ATTACHED		

FILED

MAR 12 2015

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

***United States v. Luke D. Brugnara, CR 14-0306 WHA***  
***Second Superseding Indictment***  
***Attachment to Penalty Sheet***

***Maximum Penalties (Each Count)***

Counts One through Four: Wire Fraud (18 U.S.C. § 1343)  
Imprisonment: 20 years  
Fine: \$250,000 (or twice the value of the property involved in the offense, whichever is greater)  
Supervised Release: 3 years  
Special Assessment: \$100  
Restitution: To be determined by the Court

Count Five: Mail Fraud (18 U.S.C. § 1341)  
Imprisonment: 20 years  
Fine: \$250,000 (or twice the value of the property involved in the offense, whichever is greater)  
Supervised Release: 3 years  
Special Assessment: \$100  
Restitution: To be determined by the Court

Counts Six and Seven: False Declaration Before Court (18 U.S.C. § 1623)  
Imprisonment: 5 years  
Fine: \$250,000  
Supervised Release: 3 years  
Special Assessment: \$100  
Restitution: To be determined by the Court

Count Eight: Escape (18 U.S.C. § 751(a))

Imprisonment: 5 years

Fine: \$250,000

Supervised Release: 3 years

Special Assessment: \$100

Restitution: To be determined by the Court

Count Nine: Contempt of Court (18 U.S.C. § 401(3))

Imprisonment: Discretion of the Court

Fine: Discretion of the Court

Special assessment: \$100

1 MELINDA HAAG (CABN 132612)  
2 United States Attorney  
3  
4  
5  
6  
7

FILED  
2015 MAR 12 P 3:20  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
*[Signature]*

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA, ) NO. CR 14-0306 WHA  
12 Plaintiff, )  
13 v. ) VIOLATIONS: Title 18, United States Code, Section  
14 LUKE D. BRUGNARA, ) 1341—Mail Fraud; Title 18, United States Code,  
15 Defendant. ) Section 1343—Wire Fraud; Title 18, United States  
 ) Code, Section 1623—False Declaration Before Court;  
 ) Title 18, United States Code, Section 751(a)—  
 ) Escape; Title 18, United States Code, Section  
 ) 401(3)—Contempt of Court; Title 18, United States  
 ) Code, Sections 982(a)(1)(c), and Title 28, United  
 ) States Code, Section 2461(c)—Forfeiture Allegation  
 )  
17 SAN FRANCISCO VENUE  
18 )

19 SECOND SUPERSEDING INDICTMENT

20 The Grand Jury charges:

21 Introductory Allegations

- 22 1. The defendant, Luke D. BRUGNARA, was an individual who resided in San Francisco,  
23 California.  
24 2. Victim 1 was an individual who resided in the State of New York. Victim 1 was an art  
25 dealer.

26 The Scheme to Defraud

- 27 3. From approximately March 2014 through at least approximately May 2014,  
28 BRUGNARA devised and executed a material scheme and artifice to defraud Victim 1, and to obtain

1 money and property from Victim 1 by means of materially false and fraudulent pretenses,  
2 representations, and promises, and by omission and concealment of material facts. BRUGNARA  
3 executed his scheme by, among other things, agreeing to purchase, accepting delivery of, and  
4 maintaining possession of several pieces of art for which he had agreed to pay a total of approximately  
5 \$11,000,000 based on the false representation that he intended to and would pay for that art, and then  
6 refusing to pay for the art or to return it.

7       4. In furtherance of his scheme to defraud and to obtain property, BRUGNARA made many  
8 material misrepresentations and omitted and concealed many material facts, including but not limited to  
9 the following:

- a. BRUGNARA falsely stated he intended to and would pay for the art;
  - b. BRUGNARA omitted that he had almost no income, no assets, and no means to
  - c. he had agreed to purchase, and he omitted that he had a substantially negative net worth;
  - c. BRUGNARA falsely stated he wanted to buy the art to place in a museum he was
  - d. When the art was delivered to BRUGNARA's residence in the presence of Victim
  - R A falsely told Victim 1 that he was not expecting Victim 1, that he was too busy to
  - at that time, and that he would call Victim 1 later to arrange a time to inspect the art; and
  - e. After taking possession of the art and refusing to pay for it, BRUGNARA falsely
  - m 1 had given the art to BRUGNARA as a gift.

20       5.     In furtherance of his scheme, BRUGNARA refused to return any of the art, only some of  
21 which eventually was seized by law enforcement.

22       6. It was further part of the scheme that BRUGNARA did conceal and hide, and cause to be  
23 concealed and hidden, the acts done and the purpose of the acts done in furtherance of the scheme.

**24 COUNTS ONE THROUGH FOUR: (18 U.S.C. § 1343 – Wire Fraud)**

7. Paragraphs 1 through 6 are realleged and incorporated herein by reference.
  8. On or about the dates set forth in the separate counts below, in the Northern District of California and elsewhere, the defendant,

LUKE D. BRUGNARA.

1 for the purpose of executing his material scheme and artifice to defraud, and to obtain money and  
2 property by means of materially false and fraudulent pretenses, representations, and promises, and by  
3 omission and concealment of material facts, did knowingly transmit and cause to be transmitted the  
4 following wire communications in interstate commerce:

COUNT	DATE	ITEM WIRED
1	March 23, 2014	E-mail from BRUGNARA to Victim 1 stating BRUGNARA "... will buy all of the paintings and put them in my museum..."
2	March 24, 2014	E-mail from BRUGNARA to Victim 1 stating BRUGNARA wants "...all the art pieces...including the etchings and the bronzes..."
3	March 25, 2014	E-mail from BRUGNARA to Victim 1 stating "Thank you. I look forward to putting them in my museum."
4	April 15, 2015	E-mail from BRUGNARA'S attorney stating "Mr. Brugnara was not given a Hermitage Book..."

14 Each in violation of Title 18, United States Code, Section 1343.

15 **COUNT FIVE:** (18 U.S.C. § 1341 – Mail Fraud)

16 9. Paragraphs 1 through 6 are realleged and reincorporated herein by reference.

17 10. On or about April 5, 2014 through on or about April 7, 2014, in the Northern District of  
18 California and elsewhere, the defendant,

19 LUKE D. BRUGNARA,

20 for the purpose of executing his material scheme to defraud, and to obtain money and property by means  
21 of materially false and fraudulent pretenses, representations, and promises, and by omission and  
22 concealment of material facts, did knowingly cause crates containing art to be sent and delivered by  
23 interstate carrier, in violation of Title 18, United States Code, Section 1341.

24 **COUNT SIX:** (18 U.S.C. § 1623 – False Declaration Before Court)

25 11. Paragraphs 1 through 6 are realleged and reincorporated herein by reference.

26 12. On or about June 17, 2014, in the Northern District of California, the defendant,

27 LUKE D. BRUGNARA,

28 while under oath in a proceeding before a court of the United States, did knowingly make a false

1 material declaration, specifically falsely stating, on direct examination, as italicized below:

2 Q. Okay. So after you wrote [Victim 1] this e-mail, the discussion sort of transitioned into when  
3 she was going to ship the art pieces to Seacliff; is that correct?

4 A. No.

5 Q. Okay.

6 A. I took the e-mails that I got from her, and I sent them to the head of Sotheby's in New York,  
7 who's also the head of Bond Street and London, and I asked, you know, what's – you know,  
8 what's the value or – I don't have the specific e-mail in front of me, but the essence of it was  
9 "How much would you sell these for, and what are they worth?" Just a simple valuation inquiry.  
10 *And I heard back that the de Koonings are not authentic, and they would not sell them as de*  
11 *Koonings, and the Degas – they would not sell the Degas because it's not authentic ....*

12 All in violation of Title 18, United States Code, Section 1623.

13 **COUNT SEVEN:** (18 U.S.C. § 1623 – False Declaration Before Court)

14 13. Paragraphs 1 through 6 are realleged and reincorporated herein by reference.

15 14. On or about June 17, 2014, in the Northern District of California, the defendant,

16 LUKE D. BRUGNARA,

17 while under oath in a proceeding before a court of the United States, did knowingly make a false  
18 material declaration, specifically falsely stating, on direct examination, as italicized below:

19 Q. Okay. So after you wrote [Victim 1] this e-mail, the discussion sort of transitioned into when  
20 she was going to ship the art pieces to Seacliff; is that correct?

21 A. No.

22 Q. Okay.

23 A. I took the e-mails that I got from her, and I sent them to the head of Sotheby's in New York,  
24 who's also the head of Bond Street and London, and I asked, you know, what's – you know,  
25 what's the value or – I don't have the specific e-mail in front of me, but the essence of it was  
26 "How much would you sell these for, and what are they worth?" Just a simple valuation inquiry.  
27 *And I heard back that the de Koonings are not authentic, and they would not sell them as de*  
28 *Koonings, and the Degas – they would not sell the Degas because it's not authentic ... So when*

*I had that information, I phoned [Victim 1], and I told [Victim 1] that, you know, these de Koonings are not authentic.*

All in violation of Title 18, United States Code, Section 1623.

**COUNT EIGHT:** (18 U.S.C. § 751(a) – Escape)

15. Paragraphs 1 through 6 are realleged and reincorporated herein by reference.

16. On or about February 5, 2015, in the Northern District of California, the defendant,  
LUKE D. BRUGNARA,

did knowingly escape from custody to which he was confined under and by virtue of process issued under the laws of the United States by a court, judge, and magistrate judge, by virtue of an arrest on a charge of a felony, specifically, mail fraud, wire fraud, and false declarations charged in the first Superseding Indictment in United States District Court for the Northern District of California criminal case number 14-306, and did so with consciousness of guilt with respect to those felony charges, now alleged as Counts One, Two, Three, Five, Six, and Seven of this Second Superseding Indictment; all in violation of Title 18, United States Code, Section 751(a).

**COUNT NINE:** (18 U.S.C. § 401(3) – Contempt of Court)

17. Paragraphs 1 through 6 are realleged and reincorporated herein by reference.

18. Beginning on or about February 5, 2015, and continuing through on or about February 11, 2015, in the Northern District of California, the defendant,

LUKE D. BRUGNARA,

20 did willfully disobey and resist a clear and definite lawful order, rule, decree, and command of a court of  
21 the United States of which defendant was aware, specifically, an order, rule, decree, and command  
22 issued by the United States District Court for the Northern District of California in criminal case number  
23 14-306, and did so with consciousness of guilt with respect to the charges of mail fraud, wire fraud, and  
24 false declarations alleged in the first Superseding Indictment in that case and which are now alleged as  
25 Counts One, Two, Three, Five, Six, and Seven of this Second Superseding Indictment; all in violation of  
26 Title 18, United States Code, Section 401(3).

**FORFEITURE ALLEGATION:** (18 U.S.C. § 982(a)(1)(c), and 28 U.S.C. § 2461(c))

19. Paragraphs 1 through 18 of this Second Superseding Indictment are hereby re-alleged and

1 | incorporated by reference as if set forth in full herein.

2 20. Upon a conviction of the offense alleged in Counts One through Four, the defendant,

LUKE D. BRUGNARA,

4 shall forfeit to the United States all property constituting and derived from proceeds traceable to that  
5 offense, including but not limited to a sum of money equal to the amount of proceeds obtained as a  
6 result of the offense.

7 21. If any of said property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
  - (b) has been transferred to, sold to, or deposited with a third person;
  - (c) has been placed beyond the jurisdiction of the Court;
  - (d) has been substantially diminished in value; or
  - (e) has been commingled with other property which cannot be subdivided without difficulty;

any and all interest defendant has in other property shall be vested in the United States and forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(a)(1)(c), and Title 28, United States Code, Section 2461(c) and Rule 32.2 of the Federal Rules of Criminal Procedure.

17

18

DATED:

A TRUE BILL.

3-12-15

FOREPERSON

22

23

**MELINDA HAAG**  
United States Attorney

24

25

**DAVID R. CALLAWAY**  
Chief, Criminal Division

27

28

(Approved as to form:   
AUSAs Harris and Kingsley

**SECOND SUPERSEDING INDICTMENT  
CR 14-0306 WHA**